DOCUMENT RESUME

ED 295 091 CG 020 831

AUTHOR Scholl, Kathleen K.
TITLE Marital Property Reforms: Implications for Older Farm Women.
PUB DATE 22 Mar 88
NOTE 22p.; Paper presented at the Annual Meeting of the American Society on Aging (34th, San Diego, CA, March 18-22, 1988).
PUB TYPE Information Analyses (070) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Family Financial Resources; *Farmers; *Farm Management; *Females; Homeowners; Land Acquisition; *Ownership; *Real Estate; Spouses; *State Legislation

ABSTRACT

Throughout American history, marital property reform has been a concern of farm women. With most of the farm family's business assets in real estate, women without the right of ownership can find that they have limited wealth and no influence in the distribution of the farm's assets. The National Conference of Commissioners on Uniform State Laws has recommended that all states adopt the Uniform Marital Property Act (UMPA), which requires the sharing of family assets between the spouses. UMPA enactment would assure partial ownership of new farm acquisitions to presently married farm women, and would guarantee shared ownership to newly married women. This paper describes the historical background of marital property legislation and then uses United States data to examine the effects of property rules upon joint spousal landownership. The characteristics of women who own farmland and those who do not are identified. The age and farm experience of women are included among the characteristics described. Implications are drawn concerning the future impact that UMPA may have on American farm women. (NB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED295091

MARITAL PROPERTY REFORMS:
Implications for Older Farm Women

by

Kathleen K. Scholl

Public Policy Institute

American Association of Retired Persons

CG 020831

Paper prepared for presentation at the Idea Exchange on March 22, 1988 at the annual meeting of the American Society on Aging in San Diego, California

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Kathleen K. Scholl

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

MARITAL PROPERTY REFORMS:

Implications for Older Farm Women

Throughout American history marital property reform has been a concern of farm women. With the majority of the farm family's business assets in real estate, women without the right of ownership can find, after several years of working beside their farm husbands, that they have limited wealth as individuals and no influence in the distribution of the farm's assets. As succinctly stated by Samuels (1972, p. 67), "Private property...is power, part of the total decisional structure;...the greater the property holding,...the greater the power...." Without property rights and the ensuing power, the majority of farm women are simply "unpaid family workers" who implement the decisions of farm operator husbands.

Farm wives without legal property ownership are permitted the first element of the right of ownership[1]--the right to use the asset. These women can be be legally denied the remaining two elements: the right to appropriate returns from the property and the right to change the asset's form and/or substance. Simply restated, farm women can help their husbands farm the land, expand the operation, and add to the farmland's value; but their names are not included on farm production checks, nor can they disperse any of the farm property.

The National Conference of Commissioners on Uniform State Laws has recommended that all states adopt the Uniform Marital Property Act (UMPA), which requires the sharing of family assets between the spouses. UMPA enactment would assure to presently married farm women partial ownership of

---

[1]Furubotn and Pejovich (1974, p.4) identified these elements with the Latin terms usus, usus fructus, and absus.

new farm acquisitions and guarantee shared ownership to newly married women.[2] In this paper U.S. data are used to examine the effects of property rules upon joint spousal landownership. The characteristics of women who own farmland and those who do not are identified. The age and farm experience of women are included among these characteristics. Finally, implications are drawn concerning the future impact that UMPA may have on American farm women.

HISTORICAL BACKGROUND OF MARITAL PROPERTY LEGISLATION

States are popularly classified into either of two groups according to marital property rules. Prior to the most recent marital property reform movement, civil law--also referred to as community property law--prevailed in 8 states; whereas, common law dominated in the remaining 42 states. Civil property law is primarily Spanish or French in origin and is the basis in states that were settled by these nationalities--Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington--and the Commonwealth of Puerto Rico. Common law is English in origin and is the basis for the other states (see chart).

Under the principles of both civil and common law the financial support for the family is provided by the husband; whereas, household production activities are performed by the wife, who is economically dependent on the husband. The primary difference between the property laws occurs in the ability of wives to own property apart from their husbands.[3] Under civil law the wife may hold separate property (basically property acquired before the marriage) and jointly owns family assets (property acquired during the

---

[2]See appendix for basic description of the principles of the UMPA.

[3]Note that none of the states strictly apply either set of principles as described in the following.

marriage); under common law she cannot, as an individual, own or manage property separately from her husband--all property is his.[4]

As long as both spouses agree upon the management of their property, remain happily married, and are living, a wife residing under common law has few problems with the restrictions on her ownership of the property. But once any of these conditions fail in the marriage, major problems arise for the wife. If the spouses disagree upon the management of property, the wife has no legal recourse since the marriage removed any rights she had to ownership. Upon divorce the wife regains control of her property that she brought into the marriage, but the courts handle distribution of marital property differently and she cannot be assured of ownership before the divorce decree. Under common law the order of the spouses' deaths greatly affects the ownership of property by the wife. If the wife succumbs first, a surviving husband's curtesy entitles him to all the inheritance of his wife. She cannot bequeath property to anyone else; for example, a wife under common law rules cannot will property to her children. Creditors cannot seize any of the husband's curtesy; this restriction in access to assets does not encourage creditors to extend credit to wives. If the wife outlives the husband, a surviving wife's dower entitles her to life interest of one-third of the property. Like a husband's curtesy, the wife's dower is protected from creditors and any dispersement to others in his will.

Wives under civil law rules have more protection to their rights to marital property than women under common law rules. Wives can hold property separately from their husbands. This property, which is property owned before the marriage or property obtained through gift or inheritance to the

---

[4]Refer to Younger (1981) for detailed information and legal case history regarding the two types of property law.

wife, remains hers. She can manage the property, retain ownership upon divorce, and disperse it upon her death. The community property which is acquired in marriage is equally owned by both spouses, but the husband has managerial rights to the property. Upon divorce the marital property is divided between the spouses. The wife, upon death, can bequeath half of the community assets in any manner she directs.

Over the years the states have switched between these two property law classifications. At one time or another, civil property laws were prevalent in most of the southern states and the old Northwest Territory northern border states. Common law principles were adopted during the late 1800's in most of these states, however, through legislation or judicial decisions. Between 1939 and 1947 other states, such as Oklahoma, adopted community property legislation to allow their married spouses to file separate income tax forms, which was permissible for spouses in community property states. Later these states repealed the legislation after passage of the Revenue Act of 1948 which allowed spouses in common law states to file separately (Younger, 1981).

Although the states began with the principles of either civil or common property law, they gradually blended the two concepts through legislation and court rulings. Eventually, the husband's superiority diminished and the assigned sex roles faded from state marital property legislation.

> "By the end of the nineteenth century, every state had a married women's property act. The general effect in common law states was to separate the spouses into two legal persons by restoring wife's capacity to own property, and in civil law states, to undo the results of common law influence by restoring wife's power to manage and control her separate assets." (Younger, 1981, pp.62-63)

Once again the states are in the process of debating and changing their marital property rules. Citing that more marriages now terminate in divorce

than in death, an increase in two-earner households, problems with probate, and the elimination of Federal taxation on property passed to the surviving spouse, the National Conference of Commissioners on Uniform State Laws drafted and recommended for enactment the Uniform Marital Property Act. The act recognizes the family as an economic unit and guarantees the sharing between the spouses of all property acquired during a marriage. Regardless of which spouse has earned or assumed title to the property, the UMPA requires that it belongs to the marriage. Wisconsin has adopted UMPA and several states are considering it.

REVIEW OF RELATED LITERATURE

The linkage between a farm woman's ownership of farmland and her subsequent power within the farm operation has been recently documented via ethnographic and longitudinal research studies. A study of female agricultural landownership using cross-sectional data from two landownership surveys suggests that recent gains in ownership by women is depleted by the low value of their farmland.

Salamon and Keim (1979; and Salamon, 1980) directly address the farm woman's control over scarce farm resources through an ethnographic study of German descendants in an East Central Illinois farming community. These families practice bilateral partible inheritance, where an attempt is made to equally divide the estate between sons and daughters. Different from the English practice of impartible inheritance in which only one child inherits the estate, these German descendant farm women are able to acquire land and maintain individual ownership of it. Ownership of crucial parcels of land through inheritance vests authority to women in the farm unit. Men control agricultural production and distribution in the community, but are dependent

upon women to provide farmland. Because women need men to farm their land, most of the farm women delegate their ownership rights to husbands or male relatives. Nevertheless, both spouses are aware of the wife's legal authority and the potential for her to exercise it. The researchers suggest that the woman's motivation for cession of power is her desire for a financially secure widowhood which is made possible through the husband's successful management of the farm unit.

Colman and Elbert (1984) document a different motivation in their longitudinal Cornell Farm Family Project. The driving force behind the farm couple's hard work is the planned intergenerational transfer of the farm to the children. Yet, to succeed the son takes the mother's position as a farm partner at a time when the woman believes she can make a genuine contribution to the operation. Freed from child rearing responsibilities, the mature women in the later portion of the 15 year study reported bitter feelings toward their exclusion from the male owner-operator farms. One wife's remark, "We are no longer a farm family," summarizes the feelings of her exclusion upon the realization of her spurn from the "family" farm. "Wives and children may work on the farm for many years, hoping that their labor will be rewarded by owner/manager status, only to find themselves 'paid off' and 'laid off'" (p. 69). Without the third right of ownership, the right to delegate property ownership, these landless women have no influence in the transfer of the farm.

Women's impact as landowners in the United States has experienced little change from 1946 to 1978 (Geisler, et.al., 1985; Geisler, et.al., 1983). Although females made a modest increase in their share of farmland ownership between 1946 and 1978, the value of their land declined. In 1946 female-owned land averaged a higher dollar value than did male-owned land; in 1978

female-owned land was less valuable. In those 30 years the proportion of female owners acquiring land through purchase increased significantly, but women were still more likely to acquire their land through gift, inheritance, or other forms of assistance that comes later in their lives.

RESEARCH FINDINGS

First a comparison is made between states to assess the impact that marital property legislation has made on joint ownership between husbands and wives. Next, national data on farm women are examined for differences between common and community property legislation. These data are analyzed further to study the association between property ownership and the farm women's involvement with the farm and the women's characteristics. In particular the woman's age and her farm experience are examined.

Husband-Wife Landownership in the United States

Examination of type of landownership from a 1978 U.S. landowner survey (Gustafson, 1983) indicates nearly two-thirds of the private land in the United States is owned by sole proprietors or jointly by husbands and wives. Yet, the states have large discrepancies within these two categories (see table and chart).

Over one-half of noncorporate privately-owned land is owned by sole proprietors. The south and west, where the community property states are located, have higher percentages owned by sole proprietors as compared with the northeast and midwest. Lead by Nevada, with 78 percent of its noncorporate land owned by sole proprietors, three of the community property states report relatively low percentages of husband-wife landowners. Perhaps land is not titled to both spouses since the wife's property rights are

already protected by the state's community property laws. Nevertheless, the high proportion of sole proprietorship in common law states, such as South Carolina (81.5 percent), suggests that spouses (wives, in particular) may have legal barriers to ownership and management of property.

A Student's t test was performed to examine the association between joint landownership and marital property laws. The Student's t statistic of -2.93 between the two categories of states indicates insufficient evidence that community property legislation will result in husband-wife landownership. The negative value of the t statistic suggests that the implementation of marital property reforms may discourage the spouses from placing both names on land titles.

Landownership by Farm Wives

The National Farm Women Survey (Jones and Rosenfeld, 1981) data also suggest that marital property legislation does not promote the wives' ownership of farm property. In regard to the wives' names appearing on farmland deeds, no difference was found between those living in community property states and those living in common law states (88 percent compared with 89 percent). Regardless of the type of marital property law, 9 in 10 married farm women have their names on at least one farmland deed. But caution should be used in using this proportion to dismiss farm women's landownership issues. The women were not asked about each specific farm deed, nor about the size of the land parcels of which they held title. In comparison with the size of the farm operation, they may have their names on fairly small parcels of farmland that encompass only a small proportion of the land holdings. Or, they may have inherited farmland that belonged to their parents that is not adjacent to the husband and wife's family farm.

Although marital property rules do not contribute to the placement of a wife's name on a land deed, the U.S. landownership data suggest that many wives in common property states are unprotected. These women contribute to the success of the farm operation through their hard work just as their counterparts do in community property states. Yet, for instance, the South Dakota farm wife, who "pulls" all the calves of the farm's cattle herd, is unlikely to own any of the livestock.

The debate on this farm women's issue calls for detailed information about farm women who own land and those who do not. Chi-square analysis of the National Farm Women Survey data was conducted to test the association between landownership and the farm women's involvement with their farms. Familial characteristics were also tested for association with the wives' landownership.

Age and Farm experience. Midlife and older farm wives are more likely than younger wives to have their names on farmland deeds ($\rho \leq .01$). Those 19 to 36 years old were twice as likely as those 55 and older to not have their names on deeds. By using a control for the wives' farm experience (measured as the percent of one's life spent on a farm), those with more experience were still more likely to have their names on deeds ($\rho \leq .05$).

Involvement with the Farm. The findings regarding the association between the women's farm experience and land ownership is also found in their involvement with the farm. Women who have their names on land deeds are likely to be involved in making farmland purchase ($\rho \leq .001$) and rental ($\rho \leq .001$) decisions. These women also perceive themselves as one of the main farm operators ($\rho \leq .001$) and are likely to perform tasks on the farm ($\rho \leq .001$), with the exception of plowing, applying chemicals, and supervising hired hands. They are likely to list themselves as a farmer or farm wife on

income tax forms ($\rho \leq .05$).

The wife's ability to run the farm operation without her husband had no influence on her ownership of farmland. If her name was excluded on the deed, neither was it likely to be included on land leases ($\rho \leq .001$), nor was she likely to be included in making farm equipment purchase decisions ($\rho \leq .001$). Women who did not own farmland sought more input into making farm decisions; whereas those who owned farmland stated they had about the right amount of responsibility for making these decisions ($\rho \leq .001$).

Personal and Familial Traits. Because of the Cornell study's findings about the transfer of the farm, the relationship between the wife's landownership and the farm children was of special interest. If her name is on a land deed, the children are likely to work on the farm ($\rho \leq .001$). This association was found for both daughters ($\rho \leq .01$) and sons ($p \leq .01$).

No association was found between the wife's level of education and her ownership of farmland. Also, the wife's employment status had no association with the placement of her name on land deeds. Apparently, the wife does not "buy" her property rights through off-farm employment.

Ownership of farmland appears to have an impact upon the wife's financial influence. If she has her name on land deeds she is also likely to have her name on joint checking and savings accounts ($\rho \leq .001$), joint charge accounts ($\rho \leq .05$), and joint loans ($p \leq .001$). If the wife has no property rights she is unlikely to have loans in her name alone ($\rho \leq .001$). If the farm wife did not have her name on the deed, she was not likely to be included on farm production checks ($\rho \leq .001$).

CONCLUSIONS

The overarching conclusion of this paper is that farm women should

approach marital property reform with caution. The U.S. landownership data and the National Farm Women Survey findings imply that a change of title to a husband-wife joint ownership is not likely to occur with the UMPA. Furthermore, the U.S. landownership data suggests that implementation of civil property legislation may result in less joint landownership. Not recognizing a need to include both names on property titles, the spouses may develop a relaxed attitude about including the wife's name on property titles.

Interestingly, midlife and older farm wives are more likely than younger farm wives to have their names included on farmland deeds. Even after controlling for farm experience, the results suggest that younger women rather than older women need protective legislation. Perhaps, as indicated in the Geisler studies, older farm wives are acquiring their land through gift or inheritance. They may be inheriting farmland from the death of their farm parents or relatives rather than being included as a joint owner at the development of the farm enterprise. This is confirmed by their considerable farm experience, which suggests that the younger wives probably have living farm parents or that they come from a nonfarm background.

The age difference suggests that younger farm wives may benefit the most from legislation such as the UMPA. In the early stages of marriage, they may be more susceptible to a loss of wealth resulting from divorce.

What power do farmland owner wives have? The results of this study suggest that midlife and older farm wives rather than young wives share in that power that landownership provides. Superimposing Samuels' relationship between power and property ownership with Geisler and others' observations suggests that female power in the agricultural sector resides with aged women and has nearly stagnated. More women may be purchasing land, but this land

is not as productive as male-owned land. Ownership of lower valued land may not convey the power that ownership of the best farmland bestows.

As indicated by the characteristics associated with farm wife's property ownership, a positive attitude toward sharing resources between the spouses rather than passage of marital property reforms appears to be more effective to cause the inclusion of the farm wife's name on land deeds. If the spouses share their business assets they are also likely to share financial responsibilities.

If this attitude is not present, however, the farm wife appears to be shut out of the farm unit. As found in the Cornell project, landless farm women are excluded from the rights of ownership. At the later stages of their lives they feel that their hard work does not implement their desired outcome in the transfer of the farm.

If farm women do not own land, they do not obtain return from the property as evidenced by their exclusion on production checks. Their landless status also affects their financial independence as these women do not have loans in their own names. Without collateral, they cannot obtain credit nor have financial independence from their owner-operator husbands.

As marital property reform is debated in the states, specific differences between UMPA and civil law principles need to be identified. Generally, civil law gives the husband managerial rights to community property; UMPA gives managerial rights according to specifications in the title. In civil law states the wife's property rights are asserted when property titles go through divorce or probate court. Therefore, depending upon each civil law state's specifications, wives may find it difficult to assert their power even after they place their names on property deeds. Without the right to participate in management of the property, the wives have no economic

advantage to incurring the transfer costs of a title change. Under UMPA, however, the title specifications determine who will manage the property and a change in title may be worthwhile for the farm wife.

Passage of UMPA in a state should signal professionals working with farm women to institute educational programs. Wives in UMPA states need to be aware of the importance of their names appearing on the titles to their individual and marital property. Also, the spouse will need to take an active role in the management of the marital property and not defer all decisions to the other spouse.

Publicity about the UMPA may mislead presently married farm women about their rights of ownership if a state adopts UMPA. Since appreciation in value of an individual's property does not automatically become marital property, the enactment of UMPA may not protect the farm wife's property rights to unimproved farmland that was inherited by her husband or given to him. The "grandmothering" of presently married farm women to the previous marital property rules of the state may give the wife an erroneous illusion of ownership of the husband's property. After enactment, only newly acquired property will be shared between the spouses, but unless the spouses sign an agreement to implement UMPA provisions to previously acquired property, nonUMPA property remains under the former property rules.

Passage of the UMPA will assist farm women in correcting some of their problems. But until the UMPA is implemented and interpreted in courts of states that adopt UMPA, its impact on farm women's rights of ownership may be very limited.

REFERENCES

Colman, Gould and Sarah Elbert. 1984. Farming families: The farm needs everyone. Research in Rural Sociology and Development 1: 61-78.

Furubotn, Eirik G. and Svetozar Pejovich. 1974. Introduction: The New Property Rights Literature. In Eirik G. Furubotn and Svetozar Pejovich (eds). The Economics of Property Rights. Ballinger Publishing Co., Cambridge, MA.

Geisler, Charles C., N.L. Bills, J.R. Kloppenburg, Jr., and W.F. Waters. 1983. The structure of agricultural landownership in the United States, 1946 and 1978. Search: Agriculture Publication No. 26. Cornell University, College of Agriculture and Life Sciences, Ithaca, NY.

Geisler, Charles C., William F. Waters, and Katrina L. Eadie. 1985. The changing structure of female agricultural land ownership, 1946 and 1978. Rural Sociology 50(1): 74-87.

Gustafson, Greg C. 1983. Who Owns the Land? A State and Regional Summary of Landownership in the United States. NRE Staff Report No. AGES 830405. Economic Research Service, U.S. Department of Agriculture, Washington, DC.

Jones, Calvin and Rachel A. Rosenfeld. 1981. American Farm Women: Findings from a National Survey. NORC Report No. 130. Chicago, IL: National Opinion Research Center.

National Conference of Commissioners on Uniform State Laws. 1983. Uniform Marital Property Act. As approved at the annual conference meeting, Boca Raton, Florida.

Salamon, Sonya. 1980. Ethnic differences in farm family land transfers,

Rural Sociology 45(2): 290-308.

Salamon, Sonya and Ann Mackey Keim. 1979. Land ownership and women's power in a midwestern farming community, Journal of Marriage and the Family 41 (February): 109-19.

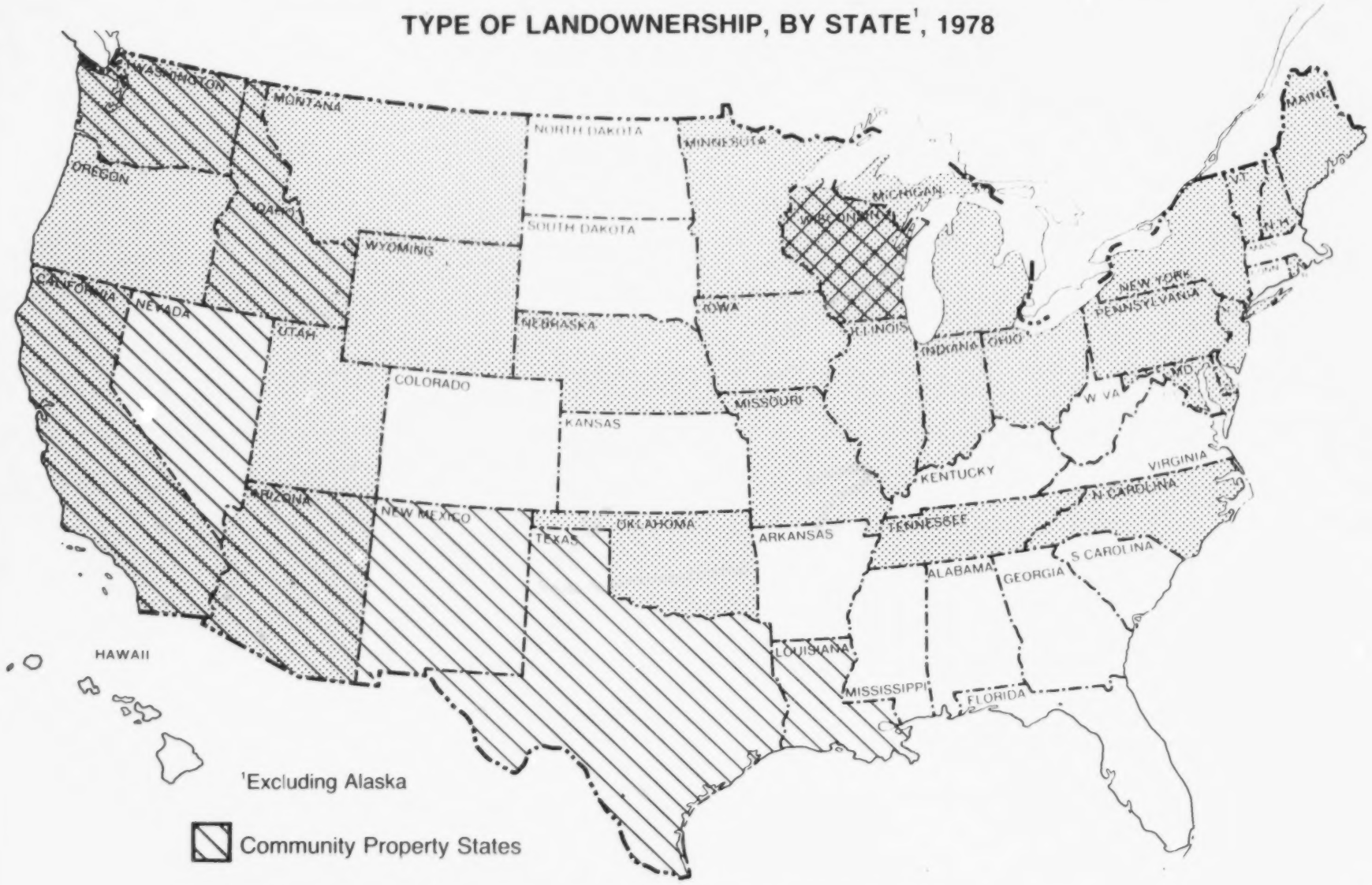
Samuels, Warren J. 1972. Welfare Economics, Power, and Property. In Gene Wunderlich and W.L. Gibson, Jr., (eds). Perspectives of Property. Institute for Research on Land and Water Resources, The Pennsylvania State University Press, University Park, PA.

Uniform Law Commissioners. N/D. The Uniform Marital Property Act: Questions and Answers. Chicago, IL.

Uniform Law Commissioners. N/D. Summary: The Uniform Marital Property Act. Chicago, IL.

Younger, Judith T. 1981. Marital Regimes: A Story of Compromise and Demoralization, Together with Criticism and Suggestions for Reform. Cornell Law Review 67(1): 45-102.

TYPE OF LANDOWNERSHIP, BY STATE[1], 1978



[1]Excluding Alaska

Community Property States

Wisconsin enacted the Uniform Marital Property Act January 1, 1986.

States in which at least 50% of noncorporate land is owned jointly by husbands and wives.

Calculated from Gustafson, Greg C., 1983, Who owns the land? A state and regional summary of landownership in the United States, *Staff Report No. AGE830405*, Economic Research Service, U.S. Department of Agriculture.

Table Type of landowner, by State, 1978

State and region	Corporate and other 1/	Noncorporate		
		Total	Sole proprietor	Husband and wife
	Percent of acres			
United States total 2/	33.7	66.3	51.3	48.7
Northeast	33.1	66.9	41.1	58.9
South	36.0	64.0	60.2	39.8
Midwest	20.4	79.6	46.0	54.0
West	48.5	51.5	47.6	52.4
Alabama	34.2	65.8	60.5	39.5
Arizona 3/	52.6	47.4	45.1	54.9
Arkansas	36.9	63.1	54.7	45.3
California 3/	54.6	45.4	50.0	50.0
Colorado	35.7	64.3	51.3	48.7
Connecticut	27.8	72.2	51.7	48.3
Delaware	30.0	70.0	48.7	51.3
Florida	62.4	37.6	59.3	40.7
Georgia	36.7	63.3	83.3	16.7
Hawaii	89.3	10.7	100.0	4/ --
Idaho 3/	40.4	59.6	38.6	61.4
Illinois	21.3	78.7	48.0	52.0
Indiana	18.7	81.3	49.6	50.4
Iowa	18.8	81.2	49.0	51.0
Kansas	21.8	78.2	50.3	49.7
Kentucky	20.0	80.0	53.1	46.9
Louisiana 3/	61.4	38.6	66.6	33.4
Maine	57.7	42.3	44.0	56.0
Maryland	21.0	79.0	42.0	58.0
Massachusetts	22.0	78.0	52.8	47.2
Michigan	24.2	75.8	35.0	65.0
Minnesota	15.2	84.8	47.9	52.1
Mississippi	32.9	67.1	71.5	28.5
Missouri	16.9	83.1	34.0	66.0
Montana	45.4	54.6	44.5	55.5
Nebraska	30.6	69.4	44.5	55.5
Nevada 3/	70.4	29.6	78.0	22.0
New Hampshire	39.7	60.3	45.9	54.1
New Jersey	46.2	53.8	43.7	56.3
New Mexico 3/	44.0	56.0	53.0	47.0
New York	26.6	73.4	40.6	59.4
North Carolina	33.0	67.0	49.6	50.4
North Dakota	12.3	87.7	52.2	47.8
Ohio	21.6	78.4	40.3	59.7
Oklahoma	19.4	80.6	49.5	50.5
Oregon	52.8	47.2	36.2	63.8
Pennsylvania	22.5	77.5	37.5	62.5
Rhode Island	24.1	75.9	44.0	56.0
South Carolina	42.1	57.9	81.5	18.5
South Dakota	22.5	77.5	56.0	44.0
Tennessee	28.7	71.3	41.0	59.0
Texas 3/	35.9	64.1	62.9	37.1
Utah	49.5	50.5	49.3	50.7
Vermont	20.7	79.3	33.4	66.6
Virginia	33.4	66.6	65.8	34.2
Washington 3/	47.8	52.2	42.7	57.3
West Virginia	39.9	60.1	50.6	49.4
Wisconsin	18.9	81.1	39.1	60.9
Wyoming	52.2	47.8	49.6	50.4

1/Other types of landowner include partnerships and other types of entities such as Indian tribes, estates, and trusts.

2/Excluding Alaska.

3/States with community property legislation in 1978.

4/Less than 0.05 percent.

Calculated from Gustafson, Greg C., 1983, Who owns the land? A state and regional summary of landownership in the United States, Staff Report No. AGE830405, Economic Research Service, U.S. Department of Agriculture.

APPENDIX

Principles of the Uniform Marital Property Act

The following are definitions and the basic principles of the Uniform Marital Property Act as recommended for enactment in 1983 by the National Conference of Commissioners on Uniform State Laws:

*Marital property is all forms of income attributable to either spouse, ranging from wages and salaries to income from trusts and investments. Commingled property is considered marital.

*Each spouse has one-half interest in the marital property, even if that spouse's name does not appear on any title.

*Marital property is <u>not</u> individual property which was acquired before the marriage or before the UMPA became effective in the State. Any property brought into the marriage is individual property, unless a couple agrees to make it marital property. An inheritance by a spouse, a gift to a particular spouse, recovery of damages for personal injury, and appreciation of individual property generally remain individual property.

*Income produced from individual property during marriage and appreciation of individual property that results from the efforts of the other spouse are marital property.

*If a question arises about the classification of property, the act assumes it is marital; the spouse claiming individual property must supply sufficient evidence to support the claim.

*The non-wage-earning spouse's opportunity to obtain credit is enhanced with UMPA. The act clearly designates the property that a creditor may use to satisfy a debt.

*At divorce, property division will continue to be governed by a State's divorce statute. On a property inventory developed for a divorce, each spouse will have one-half interest in marital property.

*Upon death the actual distribution of marital property is governed by the State's probate laws. Only a spouse's share of marital property goes to his or her estate. Spouses are allowed to pass their shares in marital property to each other without probate.

*Management and control of marital property is generally given to the spouse whose name appears on the title documents. If both spouses hold title to certain property (Jane Doe and John Doe), both must participate in its management and control. If title is held in an alternative form (Jane Doe or John Doe), either may assume this function.

*A third person acquiring property from a spouse may rely upon the title document, even if the other spouse is not included on the documents or does not consent to the transfer.

*Spouse's rights are protected by UMPA's requirement that all marital property is to be managed in good faith for the marriage. If it is not, the injured spouse may recover from the spouse responsible for the injury. Provisions inhibit and restrain collusion and other practices designed to avoid legal family responsibilities.

*Special provisions specify what marital property interests arise with life insurance and deferred employment benefits.

*UMPA restricts gifts to third parties from marital property by one spouse not acting jointly with the other.

*A couple can develop its own alternative marital property agreement, provided it is in writing, signed, and complies with the requirements in the act.